

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MONSTER ENERGY COMPANY,)	
)	Case No. 17-cv-04365
Plaintiff,)	
)	Judge John Z. Lee
v.)	
)	Magistrate Judge Young B. Kim
ZHENG SHUANG, et al.,)	
)	
Defendants.)	
_____)	

JOINT INITIAL STATUS REPORT

Plaintiff Monster Energy Company (“MEC” or “Plaintiff”) and the Defendant identified by and operating the Internet store divintymotor (“Defendant”) hereby submit the following Joint Initial Status Report.

I. Nature of the Case

A. Attorneys of Record

Plaintiff is represented by Kevin W. Guynn (lead trial attorney), Justin R. Gaudio, Amy C. Ziegler, and Jessica Bloodgood from Greer, Burns & Crain, Ltd., in Chicago, Illinois.

Defendant is represented by Bartholomew B Torvik from Torvik Law LLC in Evanston, Illinois.

B. Basis for Federal Jurisdiction

This Court has original subject matter jurisdiction over the claims in this action pursuant to the provisions of the Lanham Act, 15 U.S.C. § 1051, *et seq.*, 28 U.S.C. § 1338(a)–(b) and 28 U.S.C. § 1331. This Court has jurisdiction over the claims in this action that arise under the laws of the State of Illinois pursuant to 28 U.S.C. § 1367(a), because the state law claims are so

related to the federal claims that they form part of the same case or controversy and derive from a common nucleus of operative facts.

C. Nature of Claims Asserted

Plaintiff has brought claims for federal trademark infringement and counterfeiting, false designation of origin, and violation of the Illinois Uniform Deceptive Trade Practices Act.

Defendant has filed a Motion for a More Definite Statement [48], and has not asserted any counterclaims.

D. Major Legal and Factual Issues

The parties dispute Plaintiff's allegations, namely, that Defendant has engaged in willful federal trademark infringement and counterfeiting, false designation of origin, and violation of the Illinois Uniform Deceptive Trade Practices Act.

E. Relief Sought by Plaintiff

Plaintiff claims that Defendant account for and pay to Plaintiff all profits realized by Defendant by reason of Defendant's unlawful acts alleged in Plaintiff's Amended Complaint, and that the amount of damages for infringement of the MEC Trademarks be increased by a sum not exceeding three times the amount thereof as provided by 15 U.S.C. § 1117.

Plaintiff claims statutory damages for counterfeiting of the MEC Trademarks pursuant to 15 U.S.C. § 1117(c)(1) in an amount not less than \$1,000 or more than \$200,000 per counterfeit mark used by Defendant in connection with the sale, offering for sale, or distribution of goods or services.

Plaintiff claims increased statutory damages for willful counterfeiting of the MEC Trademarks pursuant to 15 U.S.C. § 1117(c)(2) in an amount not more than \$2,000,000 per

counterfeit mark used by Defendants in connection with the sale, offering for sale, or distribution of goods or services.

Plaintiff further claims injunctive relief, attorney's fees, costs, and any other further relief as deemed proper by the Court.

II. Pending Motions and Case Plan

A. Date of Initial Status Hearing

A status hearing is currently set for Thursday, August 31, 2017.

B. Pending Motions

Defendant's Motion for a More Definite Statement [48], filed August 2, 2017 and noticed for Thursday, August 31, 2017, is pending before this Court.

Defendant has not filed an Answer.

C. Discussion of the Mandatory Initial Discovery Pilot Project

No responsive pleadings have been filed in this case. Defendant's pending Motion for a More Definite Statement [48] was filed on August 2, 2017, less than thirty (30) days ago. As such, the parties have not yet participated in a Rule 26(f) conference.

D. Proposed Discovery Plan

1. General Type of Discovery

Informal discovery has taken place. The parties anticipate the need for written discovery and document production. The Parties may elect to conduct depositions of fact witnesses upon completion of written discovery.

2. Proposed Discovery Dates

The parties jointly suggest the following discovery deadlines:

- Rule 26(a)(1) disclosures to be exchanged on or before September 28, 2017.

- Written Discovery to be issued on or after October 5, 2017.
- Deadline to Amend the Pleadings December 14, 2017.
- Fact Discovery to be completed by January 17, 2018.
- At this time, no expert witnesses are contemplated.
- Dispositive Motions to be filed by March 1, 2018.

E. Trial Information

There is no jury demand at this time. The parties anticipate the length of trial to be 2-4 days.

III. Consent to Proceed Before a Magistrate Judge

The parties do not consent to proceeding before the assigned Magistrate Judge for all purposes, including trial and entry of final judgment.

IV. Status of Settlement Discussions

Settlement discussions have occurred between the parties, but the parties have not reached a resolution. At this time, the parties do not agree that a settlement conference will be helpful.

Dated this 28th day of August 2017.

Respectfully submitted,

/s/ Justin R. Gaudio

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Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of August 2017, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system, which will send a “Notice of E-Filing” to the attorneys of record in the case.

/s/ Justin R. Gaudio
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